

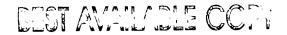
# United States Patent and Trademark Office



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/002,595	11/01/2001	Motasim Sirhan	020460-001600US	4760	
20350	7590 04/06/2004		EXAMINER		
TOWNSEN	ND AND TOWNSEND	PHAN,	PHAN, HIEU		
TWO EMBARCADERO CENTER EIGHTH FLOOR			ART UNIT	PAPER NUMBER	
			AKTONII	FAFER NUMBER	
SAN FRANCISCO, CA 94111-3834			3738	17	
				DATE MAILED: 04/06/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.



•	Application No.	Applicant(s)			
· 0/// 4 // . 0	10/002,595	SIRHAN ET AL.			
Office Action Summary	Examiner	Art Unit			
·	Hieu Phan	3738			
The MAILING DATE of this communication appeariod for Reply	ppears on the cover sheet with	h the correspondence address			
A SHORTENED STATUTORY PERIOD FOR REP THE MAILING DATE OF THIS COMMUNICATION  - Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a re - If NO period for reply is specified above, the maximum statutory perio  - Failure to reply within the set or extended period for reply will, by statu. Any reply received by the Office later than three months after the mail earned patent term adjustment. See 37 CFR 1.704(b).	I.  1.136(a). In no event, however, may a report of thirty dividing the statutory minimum of thirty dividing and will expire SIX (6) MONT ate, cause the application to become ABA	oly be timely filed  (30) days will be considered timely.  HS from the mailing date of this communication.  NDONED (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed on 20	January 2004.				
2a) This action is FINAL. 2b) ⊠ Th					
3) Since this application is in condition for allow	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
4) ☐ Claim(s) 1-273 is/are pending in the application 4a) Of the above claim(s) is/are withdrest is/are allowed.  5) ☐ Claim(s) is/are allowed.  6) ☐ Claim(s) is/are rejected.  7) ☐ Claim(s) is/are objected to.  8) ☐ Claim(s) 1-273 are subject to restriction and/	awn from consideration.				
Application Papers					
9)☐ The specification is objected to by the Examir	ner.				
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.					
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).					
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.					
The oath of declaration is objected to by the t	Examiner. Note the attached	Office Action of form PTO-152.			
Priority under 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:  1. Certified copies of the priority documents.  2. Certified copies of the priority documents.  3. Copies of the certified copies of the priority application from the International Bure	nts have been received. nts have been received in Ap ionty documents have been r	plication No			
* See the attached detailed Office action for a list of the certified copies not received.					
Attachment(s)		Lieu CCIV			
1) Notice of References Cited (PTO-892)	4) 🔲 Interview Su				
<ol> <li>Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>Information Disclosure Statement(s) (PTO-1449 or PTO/SB/0-Paper No(s)/Mail Date</li> </ol>		/Mail Date ormal Patent Application (PTO-152) -·			

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### **DETAILED ACTION**

#### Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims 1-7 and 74-271, drawn to luminal prosthesis, classified in class
     623, subclass 1.42.
  - II. Claims 8-73, drawn to method for treating vascular artery, classified in class 128, subclass 898.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process of using that product. For example, the bioactive agents can be release without requiring a layer of cell to grow over the luminal prosthesis.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 4. This application contains claims directed to the following patentably distinct species of the claimed invention of Group I (luminal prosthesis):



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Specie 1: figure 2A

Specie 2: figure 2B

Specie 3: figure 2C

Specie 4: figure 2D

Specie 5: figure 2E

Specie 6: figure 2F

Specie 7: figure 2G

Specie 8: figure 2H

Specie 9: figure 21

Specie 10: figure 2J

Specie 11: figure 2K

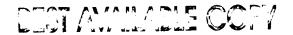
Specie 12: figure 2L

Specie 13: figure 2M

Specie 14: figure 2N

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

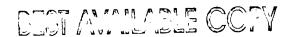


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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

- 5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 7. A telephone call was made to Nena Bains on 04/02/2004 to request an oral election to the above restriction requirement, but did not result in an election being made.



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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

### Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Phan whose telephone number is 703-308-8969. The examiner can normally be reached on Monday-Friday from 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0873.

Hieu Phan Examiner Art Unit 3738

David H. Willse Primary Examiner